

# JacksonLewis

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October 19, 2022

**VIA ELECTRONIC FILING**

Hon. Cathy L. Waldor, U.S.M.J.  
U.S. District Court for the District of New Jersey  
MLK, Jr. Courthouse  
50 Walnut Street  
Newark, New Jersey 07101

Re: *Ann Carletta v. Bertelsmann, Inc., et al.*  
Docket No. 2:20-cv-14304 (KSH)(CLW)

Dear Judge Waldor:

This firm represents Defendants Bertelsmann, Inc. and RTL AdConnect, Inc. (“Defendants”) in the above matter. Plaintiff Ann Carletta is represented by Leonard E. Seaman, Esq. of the Law Office of Richard Malagiere. Kindly accept this correspondence as a joint status letter from the parties on discovery in this matter.

Plaintiff’s virtual deposition occurred on February 10, 2022, and continued on September 7, 2022, after the parties successfully resolved a discovery dispute with respect to Plaintiff’s employment records and mitigation efforts. The deposition of defense witnesses, Erika Kirshner and Brie Higgins, occurred on September 22<sup>nd</sup> and September 28<sup>th</sup>, respectively. Thereafter, the undersigned was out of the office for two weeks due to COVID-related issues. An additional four witnesses are scheduled for October 19<sup>th</sup>, October 26<sup>th</sup>, and November 16<sup>th</sup>. Plaintiff has also advised she is seeking the deposition of an additional fact witness and Defendants are in process of responding to her request regarding same.

Defendants have requested additional records from Plaintiff, based on her deposition on September 7<sup>th</sup>. Defendants have retained an expert to provide an opinion as to Plaintiff’s mitigation efforts, and the documentation requested from Plaintiff is essential to the expert’s report. In addition, Plaintiff has requested additional records from Defendants, based on the deposition of Ms. Kirchner. Both parties are reviewing and responding to the additional discovery demands.

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At the conclusion of the currently scheduled depositions, Plaintiff will determine the necessity of deposing two (2) upper management employees, which may require Defendants to file a motion for a protective order based on the apex-deposition doctrine. Defendants were initially going to file the motion prior to Plaintiff taking any other defense depositions; however, based on the relevant caselaw and Plaintiff's burden to show the information cannot be obtained from lower-level employees or through less burdensome means, the parties agreed to wait on this issue until it was ripe for a determination before the Court.

Plaintiff also intends to serve an expert report addressing her economic damages.

Despite best efforts, the parties were unable to complete fact discovery by October 17<sup>th</sup>, and respectfully request a brief sixty (60) day extension of time to complete the remaining defense depositions and outstanding discovery responses with expert discovery to be completed thereafter. We look forward to speaking with Your Honor on October 27<sup>th</sup> during the status conference.

Thank you.

Respectfully submitted,

JACKSON LEWIS P.C.

s/ Amanda E. Miller

Amanda E. Miller

AEM:am

cc: Leonard E. Seaman, Esq. (via ECF)